

Fifth. For his gross and unbearable partiality for his son-in-law, H. W. Moore, a practicing attorney in his court, whereby his whole judicial authority and influence are and have been exerted in the interest of the said Moore, both in civil and criminal cases, to the prejudice of other attorneys of the said court, resulting in great injustice to parties litigant, and bringing judicial authority into disgrace, as evidenced by his nearly every official act where the said Moore was concerned, and as evinced by his rulings and charge in cause of E. M. Collins vs. Thomas F. Cook, now pending on appeal in Supreme Court at this place, to which reference is made. And for many other similar acts, which this House reserves the right hereafter to specify.

Sixth. For presiding in the cause of The State of Texas v. W. D. Taylor, pending in Houston county, wherein defendant is charged with murder, and making rulings therein in the interest of the said Taylor, when the said judge had previously been engaged as the attorney of the said Taylor, (and his said son-in-law was then one of the attorneys for the said Taylor,) all in contempt of the law, and in utter disregard of his official oath.

Seventh. For compounding felony in the case of The State v. Abe Smith, pending in Houston county, wherein the defendant was charged with theft; whereby the said judge did receive the sum of one hundred dollars as an inducement for and in consideration of his thereafter having the said Smith discharged, or some such similar service, whereby the said Smith was promised that he should not be further troubled in said cause; and that the said judge thereafter failed and refused to discharge his duty in said cause, and has failed to have said Smith brought to trial and has refused, on application of the attorney representing the State, to allow a forfeiture taken on said Smith's bond, though the said Smith had repeatedly and uniformly failed and refused to attend the said court, as required by his said bond, and for many other derelictions of duty and corruptions in office, which this House reserves the right hereafter to specify.

*Resolved*, That the address just read, requesting the removal of Judge L. W. Cooper, be referred to a joint special committee of five members of the House and three on the part of the Senate, the Senate concurring therein, and that said committee report the proper mode of procedure in such case.

Adopted.

And the following Senators were appointed on said committee to confer with the House committee on said address, to-wit: Senators Swift, Bradshaw and Ball.

Senator Culberson offered the following resolutions:

*Resolved*, That the presiding officer of the Senate, cause the secretary to prepare thirty tickets, and shall place on ten of said tickets the figures two, on ten of said tickets the figure four, and the remaining ten of said tickets the figure six, and shall place the same in a hat and have the same properly prepared for allotment. Whereupon the secretary of the Senate shall call the roll by districts in the order of their number, and as each district is called a page of the Senate shall draw a ticket, and the number on said ticket so drawn shall be the term of the Senator from such district, and shall so be enrolled.

*Resolved further*, That this drawing and allotment of term, shall take place at 12 o'clock to-day.

Adopted.

Senator Friend offered the following bill, "An act for the relief of K. Bigham White." Read first time and referred to Committee on Private Land Claims.

Senator Swift offered the following resolution, to-wit:

*Resolved*, That a committee of three from the Senate and five from the House of Representatives be appointed to take into consideration the propriety of reducing the number of judicial districts in the State, and a reduction of the salaries of officers as provided in article twelve, section eight, general provisions of the Constitution, and report as soon as practicable.

Adopted.

The hour having arrived for the Senators to draw for terms, the Senators proceeded to draw, with the following result:

Senators Ball, Camp, Ireland, Morris, Russell, Trolinger and Wood, drew two year terms.

Senators Bradshaw, Bradley, Culberson, Dillard, Flanagan, Hobby, Moore, Parker, Randle and Swift, drew four year terms.

Senators Allison, Baker, Davenport, Dwyer, Ellis, Erath, Friend, Lebetter, Stirman and Westfall, drew six year terms.

There being no Senators present from the Twelfth, Thirteenth and Sixteenth Districts, terms were drawn for them, each district drawing two year terms.

On motion of Senator Flanagan, the Senate adjourned to 10 o'clock A. M. to-morrow.

## TWENTIETH DAY.

SENATE CHAMBER,  
AUSTIN, February 4, 1874. }

Senate met pursuant to adjournment. The President being absent, on motion of Senator Westfall, Senator Dillard was elected to act as presiding officer during the day.

Roll called; quorum present.

Prayer by the chaplain.

Journal of yesterday read and adopted.

Senator Wood moved that Senator Bradley be granted leave of absence for eight days. Granted.

On motion of Senator Culberson, Senator Davenport was excused until Tuesday next. (President in the chair.)

Senator Wood submitted the following report:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Judiciary, to whom was referred a resolution instructing said committee to inquire into the jurisdiction and authority of the present Senate, to entertain the articles of impeachment against Judge William Chambers, preferred by a former House of Representatives to a former Senate, instruct me to report, that, in the opinion of the committee, the dissolution of the House of Representatives preferring, and the Senate receiving such articles of impeachment, does not abate the same, but that a succeeding House of Representatives may properly prosecute, and a succeeding Senate entertain such articles of impeachment, and proceed to try the party impeached; that, in fact, it is the duty of such succeeding House and Senate to so do.

Your committee have further to say, that they entertain no doubt but that the articles of impeachment against Judge William Chambers, preferred by the last House of Representatives, were, within the meaning of the law and the Constitution, presented to and lodged in the last Senate, and that the same are now legally pending before the present Senate, subject to the order and disposal of the Senate, under the Constitution and the rules of the Senate regulating impeachment trials, and that the Senate may legally proceed to the trial of said judge on said articles of impeachment.

All of which is respectfully submitted,

W. D. Wood, for Committee.

Senator Dillard moved that the rules be suspended, and report taken up. Carried.

Rules suspended and report adopted.

Senator Russell, for Judiciary Committee, submitted the following report:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Judiciary, to whom was referred Senate bill No. 60, "An act concerning the forfeiture of certain sheep and goats," have had the same under consideration, and instruct me to report it back, with the recommendation that it do pass.

W. H. Russell, for Committee.

Senator Westfall, chairman of Committee on Education, submitted the following report:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Education, to whom was referred Senate bill No. 70, "An act

for the relief of the several justices of the peace of the several counties in this State, making a list of the scholastic population of their respective counties for the years 1872 and 1873," have considered the same, and instruct me to report it back with the recommendation that it do pass.

W. H. Westfall, Chairman.

Senator Baker submitted a petition from George Hancock, to obtain permission to establish in the courts a claim against the State. Read, and on motion of Senator Baker, was referred to the Committee on Private Land Claims.

Senator Culberson, for Judiciary Committee, submitted the following report:

*Hon. R. B. Hubbard, President of the Senate:*

Your committee, to whom was referred Senate bill No. 78, "An act to define the land districts of Palo Pinto, Jack, Clay, Young and Eastland, and to make valid the surveys and locations made therein," beg leave to report the same back with the following amendments: Amend section eight by striking out all above the figures "1870," in line eight, and insert in lieu thereof "That the surveys and locations of land made in the counties and territories recited in the preceding sections, by persons appointed as surveyors therein by the Governor of the State, under 'An act to provide for the appointment of one county surveyor for two or more counties,'" approved May 25, 1871. Also, amend by striking out the last words in section eight, and add "take effect sixty days after its passage," and they recommend the passage of the bill as amended.

Culberson, for Committee.

Senator Westfall introduced a bill entitled "An act to amend 'An act to incorporate the Austin and Pacific Short Line Railroad Company,'" passed May 30, 1873. Read first time and referred to Committee on Internal Improvements.

On motion of Senator Bradshaw, fifty copies were ordered printed.

Senator Bradley introduced a bill entitled "An act to provide for the drafting of a new State Constitution and for submitting the same to the vote of the people." Read first time and referred to Committee on Constitutional Amendments.

Senator Flanagan introduced a bill, entitled "An act to incorporate the Travis Mining and Construction Company." Read first time and referred to Committee on Internal Improvements.

Senator Hobby introduced a bill, entitled "An act prescribing the times of holding the annual session of the Legislature." Read first time and referred to Judiciary Committee.

The President announced the following Senators as the Senate committee, to act with a committee of five from the House of

Representatives, to take into consideration the propriety of reducing the number of judicial districts in the State, etc.: Wood, Hobby and Russell.

A message was received from the House announcing the passage of the following bills: House bill No. 10, "An act to authorize the appointment of an attorney-at-law in certain cases, to act as district attorney;" House bill No. 79, "An act to extend the area and enlarge the county of Gregg;" House bill No. 88, "An act to create a lien in favor of the proprietors of livery or other public stables;" House bill No. 97, "An act to amend sections one, two and three of an act to amend 'An act to authorize the transcript of the records of Bowie county,'" approved April 3, 1873; House bill No. 98, "An act to amend an act prescribing the time of holding the District Court in Kaufman and Rockwall counties, in the Tenth Judicial District," approved May 27, 1873; House bill No. 111, "An act to authorize the several county courts in this State to offer a premium for wolf scalps;" Senate bill No. 51, "An act to regulate the holding of the District Court of Freestone county at its April term."

Also, the passage of the following resolution:

*Resolved*, That a special committee of five members of the House be appointed to confer with a like committee of the Senate, to prepare and introduce a bill apportioning the State of Texas into six congressional districts.

Also, announcing that the House had appointed on said committee Messrs. DeMorse, Simpson, Barziza, Storey and McLeary.

Senator Wood introduced a bill, entitled "An act to authorize the change of county seats." Read first time and referred to Committee on Counties and County Boundaries.

By leave, Senator Ball presented a petition from the citizens of Parker county." Read and referred to Committee on Judiciary.

Senator Wood introduced a bill, entitled "An act regulating and defining legal publication in certain cases." Read first time and referred to Committee on State Affairs. (Senator Ball in the chair.)

Senator Randle introduced a bill, entitled "An act for the relief of A. W. Marchedon." Read first time and referred to Committee on Claims and Accounts.

Senator Davenport introduced a bill, entitled "An act for the protection of the wool-growing interest of the State." Read first time and referred to Committee on Stock and Stockraising.

(President in the chair.)

Senator Dwyer presented a petition from citizens of Wilson county. Read and referred to Judiciary Committee.

#### UNFINISHED BUSINESS.

The following resolution, offered by Senator Stirman on yesterday, was considered and adopted:

*Resolved*, That the Committees on State Affairs and Retrenchment and Reform be authorized to employ a clerk; and when said clerk is not employed on said committees, he shall report to the Committee on the Comptroller's and Treasurer's Accounts for duty.

Senator Dillard moved to suspend the rules, to have the address of the House, in regard to Judge M. Priest, read.

Rules suspended, and address read; and, on motion of Senator Dillard, ordered spread upon the journals.

#### ADDRESS.

*To his Excellency, Richard Coke, Governor:*

The House of Representatives of the State of Texas, the Senate concurring therein, do address your Excellency, and state the facts that one M. Priest, who now holds the office of District Judge of the Fourth Judicial District, is unfit to hold said office. And we, the House of Representatives and Senate, do request that said Priest be removed from said office—for the following reasons, reserving the right to add additional causes for his removal:

First, Because, on the thirteenth day of May, 1871, the said Priest assuming to act at the instance of E. J. Davis, then acting Governor of the State of Texas, and in disregard of law, did, as he admits, place himself under the control and guidance of the executive branch of the government. He being a tool, ignorant of the laws of our State, proceeded to carry out the dictates of his master, E. J. Davis (assuming that his said master's will was superior to the Constitution and laws he had sworn to support); in vacation caused a final judgment to be entered upon the minutes of the District Court of Cherokee county, without notice or hearing, removing the presiding justice of said county, to-wit, Thomas E. Hogg, Esq., from office, and declaring the said office of justice of the peace in Precinct No. 2 of said county vacant, and ordered an election to fill said vacancy. A transcript of said proceedings is now on file in the Supreme Court of Texas, case No. 478, first assignment.

Second, Because the said Priest, being led by political preference, and believing that his position gave him the right to shield and protect his political friends from the demands of justice, did assume to make innovations upon the Code of Criminal Procedure, upon the trial of R. M. Sanders, indicted for murder, and ruled that no one who had read the *Texas Observer*, a respectable newspaper published in the town of Rusk, should serve on the jury in the said case of R. M. Sanders, and, upon his

own motion excused all who had read said paper.

Third, Because the said Priest did, after the trial and conviction of said Sanders, of murder in the first degree, and after granting a new trial, he, the said Priest, being editor of the official journal, the *San Augustine Advertiser*, begotten by the iniquitous printing law of the Twelfth Legislature, did comment upon the evidence in the said case of Sanders, and pervert the same, and make defense for said Sanders in said official newspaper, the cause still pending in said Priest's court.

Fourth, Because at the July term of 1873 of the District Court of Cherokee county, the said Priest refused on the final hearing of a *niset* judgment, upon a forfeiture of a recognizance for four thousand dollars against R. M. Sanders, W. P. Britton and J. R. Montgomery, to allow the issue to be tried before a jury, but ignorantly and arbitrarily assumed to himself the right to try and dispose of the case, and disallowed an appeal from his judgment.

Fifth, Because the said Priest combining with Judge L. W. Cooper of the Third District by partial rulings, did hinder and defeat justice by causing an acquittal of R. M. Sanders, after he, the said Sanders, had been twice convicted of murder in the first degree; the two judges believing that their allegiance to a political party was above their obligations under their oaths to the Constitution and laws of the State of Texas.

Sixth, Because the said Priest has willfully neglected and refused to perform the duties of his office in utter disregard for his oath in this: 1, Refusing to hold the... term of the... year of San Augustine court. 2, In refusing to hold the March term of 1873 of the District Court of Cherokee county. 3, In failing and refusing to hold the courts in Nacogdoches county longer than two weeks, notwithstanding the time allowed by law is three weeks, and he the said Priest has almost invariably failed to try all the causes on the docket of said court of said county.

Seventh, That said Priest has failed and refused to sign the minutes on the dockets before adjourning the terms. Because the said Priest has, on divers and sundry occasions, long after the adjournments of the terms of the courts in his district, and especially after the adjournment of the December term of 1872, of the District Court of Cherokee county, signed the minutes of said term without the same having been entered and read in court before adjournment. That said Priest, being ignorant of the laws, has, on several occasions, ordered *venues* for colored men exclusively, and especially in the cases of Mandy Wilson, who was under trial for murder; in

trying causes wherein he was interested, on the docket of the Cherokee district court, in the case of B. Renn and others v. W. P. Britton, and same against Steel and Carter.

Eighth, Because said judge is generally incompetent, and is without the confidence of the profession or the people of his district.

*Resolved*, That this address be entered upon the journals of both houses of this Legislature, and that said M. Priest, Judge of the Fourth Judicial District of this State, who is a citizen of Cherokee county, be notified to appear on the ..... day of....., 1874, and make his defense to the causes set out in this address.

On motion of Tenator Dillard, the resolution of the House just read was adopted.

Senators Culberson, Wood and Dillard were appointed to act as the Senate committee, in the address just read, and all addresses of a similar nature.

The hour for the consideration of the special order having arrived, to-wit: Senate joint resolution "to call a constitutional convention," Senator Bradley moved that it be made the special order for Tuesday next at 11 o'clock A. M. Carried.

Senator Wood introduced a bill, entitled "An act for compiling a complete alphabetical and classified abstract of all located land in Texas." Read and referred to Committee on Land Office.

#### ORDERS OF THE DAY.

House bill No. 57, "An act to authorize the County Court of Aransas county to levy a special tax to build a jail," was read first time and referred to Judiciary Committee.

Senate bill No. 14, "An act to authorize district judges to inquire into the sufficiency of the bonds of justices of the peace," with the amendments of the House committee, were read and amendments concurred in.

Senate bill No. 6, "An act to regulate the sale of homesteads," was, on motion of Senator Hobbs, made special order for Saturday next, at 11 A. M.

Senator Flanagan offered the following resolution:

*Resolved*, That the use of the Senate Chamber, under the supervision of the sergeant-at-arms, be granted to the committee on reception for the inaugural ball on Thursday, and that the Senate stand adjourned until Saturday morning at 10 A. M.

Adopted.

#### TWENTY-FIRST DAY.

SENATE CHAMBER,  
AUSTIN, February 7, 1874. }

Senate met pursuant to adjournment. Roll called; quorum present.